

The taxability of freight or delivery charges is set out at 86 Ill. Adm. Code 130.410. (This is a GIL.)

January 4, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated November 10, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Our company is an industrial distributor of machinery repair parts. We buy inventory from various suppliers and resale through our branches located nationwide.

COMPANY pays incoming freight charges on some of its inventory purchases. COMPANY also pre-pays freight on outbound shipments to deliver merchandise to our customers.

On our invoicing to customers, we charge for incoming freight and outbound freight as separate items on our sales invoices. We have been calculating sales taxes on the total of merchandise sales price plus our incoming freight expense.

We have several customers who are not paying us the sales tax on our incoming freight charges.

Please address to me a letter of official interpretation of law on the taxability of incoming freight and outbound freight when it is billed on our invoices as separate items.

Please include in your reply the tax status of the following freight charges:

- (a) Incoming transportation expenses incurred in our acquiring merchandise from our suppliers which is subsequently rebilled to a taxable customer in your state on our sales invoice as a separate item.
- (b) Transportation charges incurred in shipping merchandise out of our warehouses in STATE, STATE, STATE, AND STATE to our sales outlets in your state with subsequent rebilling as a

separate item on our sales invoice by our sales outlets to taxable customers in your state.

- (c) Freight charges to COMPANY from our suppliers on direct shipments to our customers in your state when we rebill this freight as a separate charge to our customers.
- (d) Our billing of 'freight out' (outbound freight) as a separate item on sales invoices to our customers. Outbound freight would mean our prepayment of charges from common carriers, bus or UPS to deliver the merchandise to our customer's place of business or other destination.

Thank you for your assistance in this matter.

In regard to freight charges, we have enclosed a copy of 86 Ill. Adm. Code 130.415, which is the regulation governing transportation and delivery charges. As you can see at section 130.415(e), "[t]ransportation or delivery charges paid by a seller in acquiring property for sale are merely costs of doing business to the seller and may not be deducted by such seller in computing his Retailers' Occupation Tax liability, even though he passes such costs on to his customers by quoting and billing such costs separately from the selling price of tangible personal property which he sells. The same is true of transportation or delivery charges paid by the seller in moving property to some point from which the property (when subsequently sold) will be delivered or shipped to the purchaser." In other words, incoming freight charges are always costs of doing business and are includable in gross receipts.

As a technical proposition, handling charges represent a retailer's cost of doing business, and are consequently always includable in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410. However, such charges are often stated in combination with shipping charges. In this case, charges designated as "shipping and handling," as well as delivery or transportation charges for delivery to customers in general, are not taxable if it can be shown that they are both separately contracted for and that such charges are actually reflective of the costs of shipping. To the extent that shipping and handling charges exceed the costs of shipping, the charges are subject to tax. As indicated above, charges termed "delivery" or "transportation" charges follow the same principle.

The best evidence that shipping and handling or delivery charges have been contracted for separately by purchasers and retailers are separate contracts for shipping and handling or delivery. However, documentation that demonstrates that purchasers had the option of taking delivery of the property, at the sellers' location for the agreed purchase price, plus an ascertained or ascertainable delivery charge, will suffice. If retailers charge customers shipping and handling or delivery charges that exceed the retailers' cost of providing the transportation or delivery, the excess amount is subject to tax.

Mail order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. See subsection (d) of Section 130.415. If the retailer charges a customer shipping and handling or delivery charges that exceed the retailer's cost of providing the transportation or delivery, the excess amount is subject to tax.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.